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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
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Implementation of article 21 of the Convention on the Elimination of All Forms of Discrimination against Women

Report provided by specialized agencies of the United Nations on the implementation of the Convention in areas falling within the scope of their activities

Note by the Secretary-General

Addendum

International Labour Organization

1. On behalf of the Committee, the secretariat invited the International Labour Organization (ILO), on 25 February 2004, to submit to the Committee a report on information provided by States to ILO on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women in areas falling within the scope of its activities, which would supplement the information contained in the reports of the States parties to the Convention that will be considered at the thirty-first session.

2. Other information sought by the Committee refers to activities, programmes and policy decisions undertaken by ILO to promote the implementation of the Convention.

3. The report has been submitted in compliance with the request of the Committee.

* CEDAW/C/2004/II/1.

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REPORT OF THE

INTERNATIONAL LABOUR ORGANIZATION

UNDER ARTICLE 22 OF THE

CONVENTION ON THE ELIMINATION OF ALL FORMS OF

DISCRIMINATION AGAINST WOMEN

Geneva, July 2004

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Part I: Introduction

The provisions of article 11 of the Convention on the Elimination of All Forms of Discrimination Against Women are dealt with in a number of ILO Conventions. Of the 185 Conventions adopted so far, the information in this report relates principally to the following:

- Equal Remuneration Convention, 1951 (No. 100), which has been ratified by 161 member states;
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which has been ratified by 159 member States;
- Workers with Family Responsibilities Convention, 1981 (No. 156), which has been ratified by 34 member States.

Where applicable, reference is made to a number of other Conventions which are relevant to the employment of women:

Forced Labour

- Forced Labour Convention, 1930 (No. 29)
- Abolition of Forced Labour Convention, 1957 (No. 105)

Child Labour

- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)

Freedom of Association

- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)

- Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

Employment Policy

- Employment Policy Convention, 1964 (No. 122)
- Human Resources Development Convention, 1975 (No. 142)

Maternity Protection

- Maternity Protection Convention, 1919 (No. 3)
- Maternity Protection Convention (Revised), 1952 (No. 103)
- Maternity Protection Convention, 2000 (No. 183)

Night Work

- Night Work (Women) Convention (Revised), 1948 (No. 89) [and Protocol]
- Night Work Convention, 1990 (No. 171)

Underground Work

- Underground Work Convention, 1935 (No. 45)

Part-time Work

- Part-Time Work Convention, 1994 (No. 175)

Home Work

- Home Work Convention, 1996 (No. 177)

The application of ratified Conventions is supervised in the ILO by the Committee of Experts on the Application of Conventions and Recommendations (CEACR), a body of independent experts from around the world, which meets annually. The information submitted in Part II of the present report consists of observations and direct requests made by the Committee. Observations are comments published in the CEACR's annual report – produced in English, French and Spanish – which are submitted to the International Labour Conference. Direct requests (produced in English and French – and in the case of Spanish-speaking countries, also in Spanish) are not published in book form, but are made public. At a later date, they are published on the ILO's database of supervisory activities, ILOLEX.

In addition, Part III of the report includes additional information on the countries concerned including statistical tables, information on technical co-operation activities, and annexes (extracts of relevant comments of the CEACR) to Part II of the report.

Part II: Indications concerning the situation of individual countries

ANGOLA

Position with regard to ILO Conventions

I. **Among the relevant** ILO Conventions, Angola has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 45, 87, 89, 98, 105, 138 and 182.

II. **Comments made by the ILO supervisory bodies.** The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2003 direct request, the Committee of Experts noted the Angolan Government's indication that the principle of Convention No 100 is applied in practice. It noted also the Government's claim that workers are placed in a professional grade or salary group on the basis of their length of service and academic qualifications, without any discrimination on the basis of sex. In this context, the Committee stated that insufficient information was available to enable it to assess these claim and repeated its prior request for information regarding:

a. the distribution of men and women at the various wage levels of the public service and similar services, and other sectors of the economy;

b. the percentage of women covered by collective agreements;

c. statistics on the minimum wage rates and average earnings of men and women;

d. information on the measures taken to monitor the equality of wages and decisions of the courts relating to any violations.

With regard to legislative measures taken in respect of equal remuneration, the Committee of Experts noted that section 164(2) of the General Labour Act, No. 2/00 of 11 February 2000 provided for the fixing of the different components of an employee's remuneration pursuant to methods identical for both men and women workers. Further, section 164(3) provides that job evaluation criteria utilized must be the same for workers of both sexes. The Committee asked the Government to provide information in its next report regarding the methods of job evaluation used to determine rates of remuneration in the public and private sectors.

The Committee also noted that Decree No. 2/95 of 17 February 1995, establishing wage scales for the public sector, is to be revoked. The Committee requested copies of the revoking instrument and new wage scales.

Convention No. 111: In its 2003 direct request, the Committee of Experts noted the enactment of the Decree No. 11/03 of 11 March 2003 that penalizes discrimination of workers in the selection and evaluation process and expressed its hope that the new regulation will result in an improved application of Convention No 111 in practice. The Committee asked the Government

to provide information in its next report on the enforcement of this law, including copies of any legal decisions in cases of violations based on this legislation.

The Committee requested clarification of how men and women engaged in domestic work or casual work, who are also excluded from the application of the General Labour Act, No. 2/00 of 11 February 2000 (section 2(d) and (e)), are protected from discrimination as provided for under Convention No 111, plus information on the measures taken or contemplated to implement the non-discrimination and equality provisions expressed in section 268 of the General Labour Act.

In relation to the maternity protection provided in sections 272 through 280 of the General Labour Act, the Committee requested information on the measures taken to implement progressively a national network of childcare facilities.

In relation to section 269(4) of the General Labour Act, under which a list of the jobs that women are precluded from performing is established by executive decree, the Committee requested a copy of the list. In this regard, the Committee recalled that all protective legislation applying to women should be reviewed periodically in light of equality of opportunity and treatment and of the current scientific knowledge and technology relevant to those occupations, in order to determine their continued relevance, and that it should be maintained, repealed, or extended to men as appropriate. The Committee expressed its hope that the list referred to in section 269(4) of the Act would be formulated in light of the considerations mentioned above and requested the Government to keep it informed of any review, and its findings.

Convention No 89: In its 2000 Direct Request, the Committee of Experts noted article 271(2)(c) of the new General Labour Act 2/2000, under which the employment of women during the night may be authorized by the General Labour Inspectorate when work is organized on rotating shifts and women workers have given their consent to being included in such shifts. The Committee pointed out that in this respect the provision does not appear to be consistent with Convention No 89 as the only exceptions permitted by the Convention to the general ban on women's night work are those provided for in Articles 3, 4, 5 and 8 of the Convention. The Committee asked the Government to supply fuller information on the practical application of this provision and to indicate the measures it intends to adopt to ensure that any exceptions to the night work prohibition remain within the limits set out in the abovementioned Articles of the Convention.

The Committee invited the Government to consider ratifying either the Night Work Convention, 1990 (No. 171) or the Protocol of 1990 to Convention No. 89.

BANGLADESH

Position with regard to ILO Conventions

I. Among the relevant ILO Conventions, Bangladesh has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 45, 87, 89, 98, 105 and 182.

II. **Comments made by the ILO supervisory bodies.** The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2003 direct request, the Committee of Experts noted that the definition of "wages" in the Payment of Wages Act, together with the Minimum Wages Ordinance, expressly exclude from their coverage certain emoluments, including (but not limited to) employer-made pension fund contributions, travel allowances, and any "gratuity payable on discharge". Recalling that the principle of equality between female and male workers is to be ensured not only in respect to wages, but also to any other emoluments payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment, the Committee requested the Government to provide information on how the Convention's principle is guaranteed in relation to the above-mentioned emoluments.

Convention No. 111: In its 2002 observation, the Committee noted that a tripartite Labour Law Review Committee and its subcommittee had been established to review and amend the Labour Code, and that their recommendation had been submitted to the Government. The Committee trusted that the revision of the Labour Code would include a prohibition of discrimination as defined in Article 1 of Convention Nr. 111.

With regard to the situation of women in education, the Committee noted an increase in the literacy rate, but that, despite the progress, the literacy gap between men and women remained constant. It also noted the efforts reported on by the Government to increase the literacy and education levels of men and women, girls and boys. It further noted a rise in enrolment in primary and secondary schools, especially for girls. The Committee asked the Government to continue to provide information on the enrolment rates for education as well as statistical data and information on the efforts made to enhance the literacy rate and education level of girls and women. The Government was also asked to provide for information on progress made to increase gender sensitiveness of the educational curricula. Recalling the Government's target of ensuring that females were 60 per cent of all recruitment for primary-school teachers, the Committee noted that the latest data (1997-98) showed that only 26.8 per cent of primary-school teachers are women. The Government hoped to reach 40 per cent of female teachers by 2002. The Committee also stressed that vocational training and vocational guidance are of paramount importance, in that they determine the actual possibilities of gaining access to employment and occupation, and requested information on the measures taken by the Government to strengthen women's access to vocational training and guidance.

With regard to women's participation in the public sector, the Committee recalled the very low level of women's participation in the public sector. Further, from an ILO study undertaken in Bangladesh, the Committee notes that in 1995-97, women comprised 8.56 per cent of the labour force in public and autonomous bodies in the formal private sector. Noting that neither information nor recent statistical data on women's participation in the public sector were provided in the Government's report, the Committee once again asks the Government to supply full information on the measures taken to ensure that women can actively participate in the public sector and at higher levels of decision-making.

Recalling that women workers were concentrated in export-oriented labour-intensive industries that absorb mostly unskilled and low-paid labour, the Committee noted that minimum wages for unskilled labour are applicable to both men and women. Nevertheless, it noted the Government's statement that the "garment industry employs mostly women due to the nature of jobs, which suit them". The Committee also noted that the overwhelming majority of women are working in the informal economy. It was concerned that negative stereotypes and attitudes on women's participation in the labour market result in a perpetuation of sex-based job segregation and exclusion. Therefore, the Committee urged the Government to consider undertaking positive measures in order to enhance women's training, skill development and access to jobs in different sectors of activity. Further, the Committee asked for information on the educational and awareness-raising programmes established to secure the acceptance and observance of the principle set forth in the Convention.

In its 2002 direct request, the Committee noted that the Bangladesh Employers' Association (BEA), in cooperation with the ILO, has undertaken a project for the "Promotion of women in private sector activities through employers' organizations". The Committee asked the Government to provide information on the impact of the project on women's employment opportunities, and on the measures taken to improve further the educational and employment opportunities of women. Regarding the enforcement of the provisions of the Convention, the Committee noted the Government's statement that the Department of Inspection is at present not fully equipped with sufficient inspectors. The Committee therefore asked the Government to continue to provide information on whether any measures have been taken to improve the capacity of the labour inspectorate and information on the number of inspections conducted, the violations identified and the actions taken.

Convention No.89: In its 1999 observation, the Committee notes the Government's indication that the Tripartite Consultative Council has recommended the ratification of the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948. This recommendation was therefore to be submitted to the Cabinet and the respective Parliamentary Commission.

DOMINICAN REPUBLIC

Position with regard to ILO Conventions

I. Among the relevant ILO Conventions, the Dominican Republic has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 45, 87, 98, 105, 122, 128, 171, and 182. Convention No. 89 was denounced on 6 November 2001 (see below).

II. **Comments made by the ILO supervisory bodies.** The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2003 observation, the Committee of Experts noted that according to the International Confederation of Free Trade Unions (ICFTU), women regularly earn lower

remuneration than men for work of equal value and furthermore, despite the fact that there have for several years been more women than men in higher education, most positions of higher responsibility in all areas are occupied by men. In reply to the ICFTU's observation, the Government stated that the situation changed some years ago in both the public and private sectors, including the situation of women employed in export processing zones. The Committee also noted the Government's reply that women receiv. wages that are equal to or greater than those of men, principally due to the managerial posts that they occupy. The Committee asked the Government to provide statistical data disaggregated by sex on the remuneration of workers in each branch of activity, with particular reference to data on export processing zones and the hotel industry.

The Committee further recalled that a draft text was to be submitted to the Congress to modify the restrictive concept of equal remuneration set out in section 194 of the Labour Code, thereby bringing it into conformity with the principle of equal remuneration for men and women workers for work of equal value, as set forth in the Convention (section 194 provides that provides that there shall be equal pay for equal work in specific conditions). As the Government had not provided information on this amendment in its last report, the Committee trusted that it would indicate in its next report that the above section has been amended to give full effect to the principle set out in the Convention.

Convention No. 111: In its 2003 observation, the Committee noted comments submitted by ICFTU in October 2002 concerning, inter alia, discrimination on ground of sex. It noted that, according to the ICFTU, although gender discrimination, including pregnancy controls and sexual harassment, are prohibited by law, both exist and are allowed in practice. The Committee requested the Government to provide information in its next report on the machinery for prevention and investigation to combat practices that discriminate against women, such as pregnancy testing at the time of admission to employment. The Committee also noted the information in the Government's report to the effect that, although there had been no complaints alleging pregnancy testing in the industrial export processing zones, the Government would hold a thorough investigation into the matter. The Committee trusted that the Government would be in a position to send the results of the investigation in its next report.

In its 2003 direct request, the Committee noted that the National Wages Commission approved new minimum wage rates in 2002. It observed that minimum wages in all regulated sectors, occupations or branches of activity, have in general undergone an increase higher than the one applied in the industrial export processing zones. Noting that a large percentage of minors and women work in these zones, the Committee requested the Government to provide information in its next report on the main causes of this trend and on the measures adopted or envisaged to place minimum wages in the export processing zones on a par with those of the other sectors of the economy.

The Committee also noted that the contracts of apprenticeship concluded – in this case by the National Institute of Vocational Technical Training (INFOTEP) – were mainly for men and that only 13 per cent of them were granted to women. The Committee noted that the Government provided no information on the number of women who benefited from the 190 contracts of

apprenticeship concluded by the Labour Training Department of the Secretariat of State for Labour. The Committee requested the Government to consider the possibility of increasing the percentage of women who have access to such contracts and asked the Government to provide more detailed information on INFOTEP's vocational training courses for workers in export processing zones which took place in 2000.

Further, the Committee notes that, according to the Government, under section 47(9) of the Labour Code, employers may not carry out any action against workers which may be regarded as sexual harassment, or support or fail to intervene in any such action carried out by their representatives. The Committee observed that there is no definition of sexual harassment in the Labour Code and requested the Government to envisage the possibility of adopting a definition that takes into account the elements mentioned in its general observation 2002. The Committee also noted that, according to the Government, no complaints of sexual harassment had been filed with the labour courts.

Convention No. 89: In its 2000 direct request, the Committee noted that, under articles 231 and 246 of Act No. 16-92 of 29 May 1992 promulgating the Labour Code, the general prohibition of night work for women has been lifted except for minors under 16 years of age. The Committee therefore concluded that the Convention had ceased to apply. It also noted that the National Congress had approved the denunciation of the Convention at the expiration of the current period of ten years when the Convention will again be open to denunciation. **The Convention was denounced on 6 November 2001.**

EQUATORIAL GUINEA

Position with regard to ILO Conventions

I. Among the relevant ILO Conventions, Equatorial Guinea has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 87, 98, 103, 105, 138 and 182.

II. **Comments made by the ILO supervisory bodies.** The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 1996 direct request, the Committee noted with interest Act No. 2/1990, of 4 January 1990, respecting general labour regulations (referred to below as the Labour Code), which repeals the former Labour Code (Act No. 11/1984 of 20 June 1984). Nevertheless, the Committee noted that section 55 of the Labour Code, in defining the term "remuneration", enumerates certain elements which do not form part of the wage (such as per diem allowances and travel expenses, occasional bonuses not covered by the contract of employment, social security benefits and compensation paid for transfers, suspension or dismissal). The Committee recalled that under the Convention remuneration and any other emoluments have to be paid equally to men and women workers for work of equal value. The

Committee therefore requested the Government to indicate whether this is the case and its basis in law.

The Committee further noted section 56(1) of the Labour Code, under which wages are determined "in proportion to the quantity and quality of the work, in such a way that for work of equal value equal remuneration is paid without discrimination on grounds of sex". It noted the Government's statement to the effect that wages are determined for jobs without any distinction on the grounds of the sex of the person employed and that the labour inspection service endeavors to ascertain that workers are not the victims of discrimination in respect of wages. In this respect, the Committee recalled that the criteria of quantity and quality of work appear objective, in that they relate to an object rather than a person. However, only work of the same kind can be measured comparatively by the standards of quantity and quality. The Government was therefore requested to provide information on the manner in which the principle of equal remuneration for men and women workers, in the sense of the Convention, is given effect in practice for workers who perform work of a different type but of equal value. The Committee also requested the Government to supply statistical data on the number of workers who have been covered by inspection visits and the number of violations reported.

The Government has not submitted its report on the application of the Convention for several years. At its November-December 2003 session, the Committee of Experts hoped that the Government would take the necessary measures to send a report in the near future.

Convention No. 111: Equatorial Guinea ratified the Convention in 2001. A first report on its application has been requested, but has not yet been received.

Convention No. 103: In its 1994 observation on the application of the Convention, the Committee of Expert noted with satisfaction that under Act No. 2/91 of 4 April 1991 revising certain sections of the Act of 1984 respecting social security, the rate of maternity allowances has been increased to 75 per cent of the female worker's basic earnings that are subject to contributions, and that, under section 32(c) of the General Social Security Scheme Regulations (as approved by Decree No. 100/1990), female workers who have not completed the qualifying period shall be entitled to benefits equivalent to two months' wages, in accordance with Article 4, paragraphs 2, 5 and 6, of the Convention. It also noted with satisfaction that Act No. 8/1992 of 30 April 1992 respecting public employees of the State now includes, in section 81(4), the right of certain women employees of the State in certain circumstances to interrupt their work for the purposes of nursing, in accordance with Article 5 of the Convention.

In its 1994 direct request, with regard to Article 2 of Convention No. 103, the Committee recalled that section 6 of the 1984 Social Security Act does not allow this provision of the Convention to be fully applied, since it makes protection under the social security scheme of foreign women workers who are not covered by a treaty, convention or agreement contingent upon reciprocity. The Committee hoped that the Government would take the necessary steps to amend section 6 of the Social Security Act and section 2 of the General Social Security Scheme Regulations (Decree No. 100/1990) in order to guarantee the protection provided for by the

Convention to all women working in the enterprises or occupations referred to in Article 1, regardless of their nationality and without any condition of reciprocity, as provided in Article 2 of the Convention.

With regard to Article 6 of the Convention, the Committee noted the Government's indications that that state employees enjoy excellent stability of employment and can only be dismissed for very serious misconduct in accordance with a detailed procedure provided for in sections 100 and 102 of Act No. 8/1992 of 30 April 1992 respecting public employees of the State. The Committee nevertheless hoped that the Government would not fail to take the necessary steps to ensure that the legislation applying to public employees expressly forbids notification of dismissal to a woman who is absent from work on maternity leave or at such a time that the notice would expire during such absence.

A report on the application of the Convention was due last year, but has not been received.

LATVIA

Position with regard to ILO Conventions

I. Among the relevant ILO Conventions, Latvia has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 3, 87, 98, 105, 122 and 142.

II. **Comments made by the ILO supervisory bodies.** The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2003 Observation, the Committee of Experts noted with satisfaction the inclusion of the definition of remuneration in line with Convention No 100 in section 59 of the Labour Code of 20 June 2001. The Committee also noted that section 60(1) provides that an employer has a duty to specify equal remuneration for men and women for the same kind of work or work of equal value. In the case of a violation of this principle by the employer, the employee has the right to request the remuneration that the employer normally pays for the same work or for work of equal value (section 60(2)). The Committee requested that the Government provide in its future reports information on the application of these provisions in practice and their contribution to closing the prevailing gender income gap in the country, which is approximately 20 per cent.

On the income gap, the Committee noted that in an occupational survey conducted by the Latvian Central Statistical Bureau demonstrating that women's average gross salary for the month of October 2001 was 81.4 per cent of men's (compared to around 78 per cent in the years from 1998 to 2000), only in one occupation out of ten examined (namely plant and machine operators and assemblers) was women's income equal to or slightly higher than men's.

Despite the Government's statement that the legislative framework provides for equal remuneration of women and men, the Committee noted that women continued to be paid less than men. In the Government's view, this is explained mainly by the fact that women are more frequently employed in education, social/health care and culture, sectors largely funded out of the state budget with low

average salaries. The Committee noted that, even in those sectors, men generally hold better positions and again asked the Government to provide information on measures taken to address the issue of occupational segregation of women in lower paid jobs and to promote women's access to better-paid supervisory and managerial positions. Also requested was information on any measures taken to promote a more equal sharing of family responsibilities.

In relation to objective job evaluation criteria as a means of promoting the right to equal remuneration for work of equal value, the Committee requested a copy of the following newly implemented Regulations: Regulation No. 217 of the Cabinet of Ministers of 28 May 2002 on the salary system for the employees of institutions financed from the state budget; Regulation No. 20 on salaries and allowances of state civil servants of 2 January 2001; and Regulation No. 213 of 28 May 2002 concerning salaries of employees of public administration institutions, the prosecutor's office and the courts. The Committee requested this information, plus an indication from the Government on the way in which the assessments would impact on the remuneration levels of women compared to men, to confirm the Government's statement that these Regulations are non-discriminatory with regard to salaries of women and men. The Committee also requested an indication of the steps taken or contemplated to ensure that the methodology applied for assessing and categorizing jobs avoids sex bias.

The Committee once again asked the Government to supply samples of collective agreements concluded for sectors or enterprises in which women are concentrated; (2) an indication of the extent to which workers in those sectors or enterprises are employed on piece-wages instead of salaries and the criteria utilized by employers to determine which of these two systems of remuneration is to be applied; (3) information on the extent to which work quotas are used, the types of jobs and sectors in which they are primarily utilized, the manner in which such quotas are set and applied and any measures taken or contemplated to ensure that remuneration under the work quota system complies with Convention 100.

The Committee noted that Cabinet of Ministers Regulation No. 79/2002 established the Gender Equality Council, responsible for implementing gender policies and equality. The Committee sought information on the activities of this body, the Latvian Human Rights Office and the state labour inspectorate that ensure and promote equal remuneration.

The Committee recalled that according to the Government a first case raising the issue of sex-based salary discrimination has been brought before the Latvian courts and that the case had been appealed to the Supreme Court of the Republic of Latvia. The Committee asked the Government to keep it informed regarding this matter and to supply a copy of the decision once a final outcome is reached.

Convention No. 111: In its 2001 Direct Request, the Committee of Experts noted from the Government's report that the new Labour Code entered into force on 1 June 2002 and was said to include provision shifting the burden of proof in discrimination cases to the employer.

The Committee noted that the National Human Rights Office is established as an independent state institution, promoting the observance of the fundamental human rights and freedoms of individuals and citizens in Latvia in accordance with the Constitution and international human rights treaties,

which are binding for Latvia. The Committee also noted the broad mandate of the Office, including responsibilities for, inter alia, public information, the elaboration and coordination of promotional programmes, inquiries into individual complaints, investigating the human rights situation in the country and carrying out analyses regarding the compliance of national norms with international human rights treaties. The Committee noted that the National Human Rights Office received 38 written complaints concerning labour rights in 2000, and provided consultative services in 325 labour cases in the same year. The Government stated that, in many instances, the Office was unable to provide assistance because the complainants concerned feared losing their jobs.

The Committee noted the Government's indication that the application of the Latvian policy of non-discrimination in employment is entrusted to, inter alia, the State Employment Service. The Government further indicated that the Professional Career Guidance Centre of the Ministry of Welfare is active in implementing the national policy. The Government was requested to supply specific information on the measures taken by the National Employment Service and the Professional Career Guidance Centre to promote equality of opportunity and treatment in respect of vocational training, occupational guidance and placement services offered.

Convention No. 3: In its 2003 Direct Request, the Committee requested the Government to indicate whether in Latvia there are industrial or commercial undertakings of the kind referred to in paragraphs 1 and 2 of Article 1 of Convention No 3, including mines, quarries, transport undertakings, which are in the public sector. If so, the Committee requested that the Government state how women employed in these undertakings are provided with the protection established in Convention No 3.

The Committee requested that the Government indicate the measures taken or envisaged to give full effect to Article 3 of Convention No 3, since the new Labour Law does not provide expressly that women shall not be permitted to work during the six weeks following confinement. The Committee noted with interest the Government's reply that during pregnancy and for a period of 42 days following childbirth, women are exempt from medical costs that are connected with pregnancy and postnatal observation. The Committee sought specification from the Government as to whether this free medical care included hospitalization.

The Committee also sought copies of the texts of Regulation No. 381 of 8 July 2003, on the amount of the maternity benefit, the procedure of the revision thereof and the procedure of granting and payment thereof; Regulation No. 13 of 12 January 1999 on financing health care; and Regulation No. 152 of April 2001 on the procedure of issuing sick-leave certificates.

Convention No 122: No Government report was received in 2003 or 2002. In its 2002 Direct Request, the Committee made reference to its 2000 Direct Request, relevantly noting that official unemployment reached 9.1 per cent in 1999, and that labour force survey data showed an unemployment rate of 13.5 per cent in 1999. The Committee noted that the Government's main objective of employment policy was to provide both balanced employment throughout the country and equal opportunities and requested further information on how these objectives were being attained in practice, particularly for women and socially disadvantaged groups.

MALTA

Position with regard to ILO Conventions

I. Among the relevant ILO Conventions, Malta has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 45, 87, 98, 105, 138 and 182.

II. **Comments made by the ILO supervisory bodies.** The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2002 Direct Request, the Committee of Experts noted the establishment of a Child Care Task Force. The task force, members of which include representatives from the General Workers' Union and the Malta Employers' Association, was set up in 2000 to explore childcare options, disseminate information and help pilot viable childcare cooperatives throughout Malta. The Committee noted from the report that in January 2002 the task force had submitted a report containing several proposals to the Minister for Social Policy, and that a pilot childcare centre was to be founded in the south of Malta. The Committee asked the Government to continue to inform it of the Child Care Task Force's activities and indicate in future reports the progress achieved by the establishment of childcare centres in facilitating the participation of women in the labour market and in promoting the application of the Convention.

The Committee also noted that the statistical data supplied in the Government's report indicated that women are under-represented at all levels of decision-making authority. As of March 2002 women comprised 28.8 per cent of the senior officers in all sectors of the economy and earned 79.1 per cent of the income of their male counterparts. In December 2001, 17.8 per cent of government boards and committees were comprised of women; additionally, the percentage of women in the top five scales of the public service rested at just 10.8 per cent in 2000, with no women represented in the top two scales. The Committee noted that the Management and Personnel Office, together with the Department for Women in Society and the Commonwealth Secretariat, has undertaken a project to address the serious under-representation of women in the top five scales of the public service. Under this project's auspices a report outlining 20 recommendations to increase the number of women in decision-making positions in the public service has been produced; an action plan incorporating these recommendations is presently under implementation.

The information provided in the Government's report on the activities of the Labour Inspectorate indicated that in 2001, 1,639 inspections were carried out covering 6,874 employees. These inspections did not reveal any violations of the requirement of equal remuneration for men and women for work of equal value. The Committee recalled that the reporting of no violations often signalled a lack of knowledge of the law or inadequate procedures.

Convention No. 111: In its 2002 Direct Request, the Committee of Experts noted the activities described in the annual report 2000 organized by the Department of Women in Society in order to promote and mainstream gender equality in the country. Of particular interest were the activities carried out for the public sector, such as the establishment of focal points in all Government departments, the organization of seminars and the project proposal for a gender trainer for senior officials in the public service and the training of trainers in the field of gender equality. Recalling that women are poorly represented in management positions, the Committee noted with interest the course

"Women in public management" and the new project to formulate a strategy for increasing women's representation in decision-making positions in the public service. The Committee hoped these initiatives would result in increasing the level of participation of women in the public service including in management positions and asked the Government to continue to provide information on the progress made in this regard.

The Committee noted that the activities to promote gender equality in employment focused mostly on the public sector. As for the private sector, the Committee noted the new initiative launched by the Institute for the Promotion of Small Enterprises to increase the growth of entrepreneurial start-ups managed by women. It also noted the information included in the Government's report on the incentives and subsidies offered under section 18A of the Industrial Development Act, recently amended to read the Business Promotion Act.

The Committee noted with interest that the Employment and Training Corporation (ETC) has set up a working committee on gender equality in employment and training, that a new six-week training programme for women re-entering the labour market had been set up and is now offered on a regular basis and that, together with the Commission for the Advancement of Women, ETC is formulating a report with a concrete proposal on how to promote women's employment and training participation.

The Committee has noted on many occasions that the employment service of women employees accumulated prior to the time they are required to resign due to marriage is counted as experience in access to jobs and promotions but is not recognized for purposes of calculating pensions, and this puts re-employed women at a distinct disadvantage because their actual years of service are not taken into account. The Committee also noted that by means of OPM Circular 103/80 of 1980, female public officers are no longer required to resign on marriage. The Committee continued to express its hope that the Government will consider providing legal recourse to those negatively affected and will report on any such measures taken. The Committee also requested the Government to indicate how many women are still in service whose pensionable remuneration will be negatively affected by the fact that they were forced to resign before 1980.

Convention No. 45: The Committee of Experts received the last Government report in 1994. In its 1998 Direct Request, the Committee noted its previous comments that there were no provisions in the Factories Ordinance of 1940 or the Factories (Health, Safety and Welfare) Regulations of 1986 prohibiting underground work in mines for women. The Committee requested the Government to supply full information on underground work in mines that may be carried out in Malta.

SPAIN

Position with regard to ILO Conventions

I. Among the relevant ILO Conventions, Spain has ratified Conventions Nos. 100, 111 and 156. It has also ratified Conventions Nos. 3, 29, 45, 87, 98, 103, 105, 122, 138 and 182.

II. **Comments made by the ILO supervisory bodies.** The pending comments of the ILO Committee of Experts on matters relevant to the provisions of CEDAW relate to:

Convention No. 100: In its 2002 observation, the Committee noted the Government's indication that it determines the amount of the minimum inter-occupational wage, but that the structure and amount of remuneration are the result of collective bargaining. The Government added that in the event of any failure to comply with the principle of equality and non-discrimination in this respect, public administrators could turn to the commission responsible for negotiating the collective agreement and require the rectification of any clauses that do not respect the principles of equality and non-discrimination. The Government also stated that such clauses might be taken up *ex officio* by the labour authorities by means of a special procedure set out in the Labour Procedure Act. The Committee requested the Government to provide information on the practical application of this regulation.

In its 2002 direct request on the Convention, the Committee noted with interest the adoption of Royal Legislative Decree No. 5/2000, which categorizes as a very serious offence any discrimination on grounds of sex by employers in relation to remuneration, and establishes fines to discourage such practices. The Committee asked the Government to indicate the manner in which this provision promotes the application of the principle of equal remuneration for men and women workers for work of equal value. It also asked for information on the penalties imposed under this Decree for discriminatory practices on grounds of sex.

With regard to the issue of indirect discrimination which might arise from the classification and appraisal of jobs in collective agreements, the Committee noted with interest that the Institute for Women combats all types of employment discrimination on grounds of sex, both direct and indirect, and that in collaboration with the equality bodies of the autonomous communities and the women's secretariats of the most representative trade unions at the local and national levels, training days for negotiators of collective agreements had been held on equality to increase their capacity to recognize discriminatory clauses in the texts of the respective agreements. The Committee asks the Government to provide the Office with information on any progress made with regard to eliminating pay discrimination through collective bargaining.

The Committee further noted the Government's indication that the difference between the monthly income of men and women fell from 26.8 per cent in 1996 to 24.59 per cent in 2000. According to the statistics issued by the European Industrial Relations Observatory (EIRO), the difference between the hourly income of women and men fell from 25.1 per cent in 1996 to 23.1 per cent in 2000. The Committee also noted that, according to the statistical data compiled by the Institute for Women, the average monthly earnings of women workers in 2000 did not attain the level of 65 per cent of those of men in the Autonomous Communities of Aragón, Asturias, Castilla la Mancha, Castilla León and Murcia. According to these statistics, wage discrimination occurs in all sectors of activity and in all occupational categories. The Committee considered that the wage gap between men and women is still substantial and trusted that the Government will continue to provide information in its next report on the measures adopted or envisaged to continue reducing it. It also asked the Government to provide information on the measures that are being adopted to prevent both horizontal and vertical occupational segregation by sex. Furthermore, the Committee trusted that the Government would provide detailed information on the progress achieved, together with the social partners,

in improving the employment stability of women and the wage conditions of part-time women workers. Noting that the statistics on wage increases provided by the Government were not disaggregated by gender, the Committee asked the Government to provide the fullest possible up-to-date statistics disaggregated by sex, ensuring that the statistics provided include data on sectors in which there is a clear concentration of women workers (public administration, education, social services, domestic service and small enterprises, among others).

As concerns the application of the Convention through the courts, the Committee noted with interest a number of judicial decisions related to the application of the principle of equal remuneration for men and women workers of work of equal value. In some of the rulings reference is made to the suspicious nature of evaluation criteria such as physical strength which, being a predominantly male quality, does not permit objective evaluation and could provide an unjustified advantage to men. In this decisions, the use of physical force is admitted, although in a restricted manner and subject to the dual condition that this factor is not an essential element in the work to be performed, and that job evaluations do not take strength into account as the sole criterion for appraisal, but that it must be combined with other objective characteristics affecting both men and women. Recalling that in general the jobs performed by women tend to be undervalued, the Committee asked the Government to provide information on the measures adopted or envisaged for the appraisal of jobs based on objective criteria such as responsibility, strength, dexterity, the skills of men and women workers and the working environment.

Convention No. 111: In its 2002 direct request on Convention No. 111, the Committee noted with interest the entry into force of Act No. 12/2001 adopting urgent measures to reform the labour market with a view to increasing and improving the quality of employment. It noted that the Act envisages a series of measures intended to increase stable employment, with a broadening of the categories of women who can benefit from incentives for permanent contracts, either full time or part time.

The Committee observed that the situation of women has not improved significantly in recent years. The Committee noted that, according to the statistics compiled by the Institute for Women: (a) the activity rate of women continues to be very much lower than that of men, irrespective of their level of training (39.8 per cent in 2000 and 40.36 per cent in 2001, while the rate for men was 63.8 and 64.19 per cent, respectively); (b) of the total employed population in 2001, only 37.86 per cent were women; (c) the unemployment rate of women is considerably higher than that of men (20.5 per cent in 2000 and 18.65 per cent in 2001, compared with 9.7 and 9.08 per cent, respectively). While noting the Government's intention to strengthen the action of existing procedures to ensure the application of the principle of equality, with the objective of coordinating policies on equality of opportunity with the aim of attaining the average level of women's employment in the European Union, the Committee requested the Government to continue providing information on the activities undertaken by the relevant bodies with a view to promoting equality of opportunity and treatment in employment and occupation for women, particularly with regard to access to employment.

According to the statistics compiled by the Institute for Women, a total of 59.29 per cent of students with university degrees are women, although this figure falls to 26.27 per cent for technical university courses, with 57.92 per cent of women with degrees having followed courses in law and social science. In this regard, the Committee requested the Government to provide information on the vocational guidance programmes offered to young persons, avoiding stereotypes and archaic approaches leading to an occupation or profession being reserved for persons of a specific sex.

As regards the application through the courts, the Committee noted with interest the rulings issued in 1999 and 2000 by the Supreme Court, the higher courts and the Constitutional Court relating to the principle of non-discrimination on grounds of sex in employment and occupation, with particular reference to the ruling which found that the encouragement of men to seek a job in an enterprise was a discriminatory practice, despite the fact that there was no inequality of treatment in the selection process, since discrimination had already been perpetrated indirectly, with more men than women applying for the job.

Convention No. 156: In its 1999 direct request, the Committee noted with interest that, according to the Government's report, the Bill to promote the reconciliation of the family life and professional life of workers, which will adapt the legislative framework to the need to reconcile work and family responsibilities in modern society, was being examined by the Parliament.

The Committee noted that the standards governing the collaboration between the National Employment Institute and the various public administrations, the programme to promote agricultural employment and the programme of employment workshops, include the existence of family responsibilities as one of the preferential criteria for selection. It asked the Government to provide information on the practical results achieved by such programmes.

According to the statistical information provided by the Government, part-time contracts which facilitate the compatibility between working and family life, numbered 358,533 in 1989, 2,367,093 in 1998. Women make up 59.8 per cent of all part-time contracts. The Committee noted the agreement on part-time work and the promotion of its stability concluded by the Government and the most representative trade union organizations on 13 November 1998, the contents of which have been incorporated in Royal Legislative Decree No. 15/1998, of 17 November 1998, and asked the Government to provide information on the manner in which the above Decree is applied in practice.

The Committee recalled that, according to the Trade Union Confederation of Workers' Committees (CC.OO.), there was a great lack of infrastructure for childcare and the care of the elderly. In this respect, the Government indicated that legislative measures are being supplemented by the promotion of services to care for people, notably, programmes of collaboration between administrations, subsidies granted by the Ministry of Labour and Social Affairs to non-profit organizations and subsidies provided by the General Administration of the State for programmes designed to facilitate compatibility between family and working life.

These programmes are intended for children in suburban areas, and underprivileged, newly created and rural areas. The Committee noted that the overall amount of such subsidies was 312,485,031 pesetas in 1997 and 271,551,250 pesetas in 1998 and it requested information on the manner in which this reduction affected the respective services. It also noted that in 1997-98, some 90.9 per cent of children between 4 and 5 years of age and 66 per cent of children of 3 years of age were attending school. Moreover, in 16 autonomous communities, the level of coverage of children between 0 and 3 years by public services was 14.6 per cent in 1997. The Committee requested the Government to continue providing information in this respect, and also to provide information on the services provided to the elderly.

Convention No. 103: In its 2003 observation, the Committee noted with interest the adoption of various legislative texts and regulations that can reinforce maternity protection, and particularly Act No. 39/1999 to promote the reconciliation of working and family life, which extends the duration of maternity leave to 18 weeks.

With regard to protection against dismissal, the Government referred to the improvements made to the maternity protection system by Act No. 39/1999, which amends the Workers' Charter on a number of points, including with regard to dismissal. Henceforth, the termination of the employment contract for objective reasons and dismissal for disciplinary reasons shall be considered null and void during the period of the suspension of the contract of employment, among other reasons, for maternity, risks related to pregnancy and in the event of adoption, as well as with regard to pregnant workers from the date of the beginning of pregnancy until the beginning of the period of the suspension of the contract (sections 52(4) and 55(5), in conjunction with section 45 of the Workers' Charter). According to the Government, this protection would also apply in cases of collective redundancies, even though the relevant provisions have not been explicitly amended in this respect, in view of the procedural guarantees covering this type of dismissal. The Committee noted these changes with interest as they represent progress in relation to the previous legislation as pregnancy and maternity are now explicitly taken into account. However, the Committee noted that the new provisions of Act No. 39/1999 do not apply where the termination of the contract or the dismissal for disciplinary reasons are on grounds that are unrelated with pregnancy or leave entitlement. It recalls in this respect that, in accordance with Article 6 of the Convention, while a woman is absent from work on the maternity leave provided for in accordance with the Convention, it shall not be lawful for her employer to give her notice of dismissal during such absence, nor to give her notice of dismissal at such time that the notice would expire during such absence. The Committee hoped that the Government will continue to examine the matter and that it will be able to indicate in its next report any new measures adopted or envisaged to give fuller effect to the Convention in this respect. Furthermore, the Committee ventured to suggest to the Government that it might examine the possibility of ratifying the Maternity Protection Convention, 2000 (No. 183), which contains more flexible provisions relating to protection against dismissal, while extending the duration of the period of protection.

In its previous comments, the Committee drew the Government's attention to the legal provisions applicable to domestic workers allowing the employer to end a contract of employment of a domestic worker before the expiry of the agreed term of service by having recourse to the "renunciation" procedure. The Committee had noted that, in certain cases, this procedure can allow employers to

avoid the rules respecting the maternity protection envisaged by the Convention, as they can use the "renunciation" procedure as soon as they learn of the pregnancy of the employee, thereby denying her any protection, including protection against dismissal, and it therefore requested the Government to re-examine the matter. The Government stated that the legal provisions applicable to the employment relationship binding a domestic employee to her employer are of a special nature in view of the location in which the contractual obligations are effected and the relation of trust which has to exist between the parties to the contract. It adds that these specific circumstances, as acknowledged by the courts, justify the non-application of the rules respecting protection set out in the Workers' Charter. In this regard, without disregarding the importance of trust as a characteristic element of the specificity of the employment relationship in domestic work, the CC.OO. considered that the fundamental rights of workers, and in this case the right of women not to be subjected to discrimination by reason of maternity, nevertheless have to be respected.

The Committee recalled that, in accordance with Article 1, paragraph 3(h), of the Convention, domestic work for wages in private households is included in the definition of the term "non-industrial occupations" and therefore lies within the scope of application of the Convention. While agreeing with the Government concerning the special nature of this type of employment relationship, the Committee nevertheless reiterated that the guarantees and protection afforded by the Convention are fully applicable to domestic work. The Committee therefore hopes that the Government will be in a position to provide information in future reports on any progress achieved in reinforcing supervision with regard to any abuses to which the "renunciation" procedure may give rise, thereby ensuring, in the context of maternity protection, real equality of treatment both between men and women and between women employed in domestic work and those engaged in other types of waged employment, in accordance with the provisions of the Convention.

In its 2003 direct request, the Committee noted the Trade Union Confederation of Workers' Commissions (CC.OO.) statement that, in its opinion, the qualifying period of 180 days of contributions required by the Spanish legislation deprives a large number of women workers from entitlement to maternity cash benefits, and particularly those who are employed part time. In this respect, the Committee noted with interest the information provided by the Government that the Fourth Plan for Equality of Opportunity for Men and Women for the period 2003-06 includes among its objectives the elimination of the minimum period of contributions for entitlement to maternity benefits in relation to the compulsory postnatal period of leave (six weeks after confinement). The Committee also noted that, under the terms of section 4(1)(4) of Royal Decree No. 1251/2001, where the woman does not meet the qualifying conditions for cash benefits, she may authorize the child's father to receive these benefits for the whole period of leave, with the exception of the six-week period of compulsory leave, provided that he meets the qualifying conditions set out in the regulations. With regard to part-time workers, the Government added that specific rules taking into account the principles of equality and proportionality are applicable to the calculation of contribution periods. The Committee hoped that the Government will be able to indicate in its next report the measures adopted to achieve the objectives of the Fourth Plan for Equality of Opportunity between Men and Women with regard to the elimination of the qualifying period for the provision of cash benefits during the compulsory period of leave.

Part III: Additional Information

BANGLADESH

- Within the framework of the project "Women's Empowerment through Employment and Health", funded by the US Department of Labor, agreements were negotiated and concluded in the year 2003 with all key stakeholders in the tea plantation sector, i.e. the BTA- the employers' organization-Tea workers Trade Union /BCSU and Ministry of Labour, to encourage their participation and increase their capacity to provide services to the primary target group of the project. About 13,000 predominantly female workers in the tea plantation sector are covered by these agreements. With regard to the project's activities geared towards small female-owned enterprises, the training provided under the auspices of the project has enhanced women entrepreneurs' exposure to markets and their assertiveness in bargaining with middlemen and traders. A copy of the most recent implementation report of this project was supplied to the Division for the Advancement of Women secretariat.

- The International Labour Organization (ILO) and the Asian Development Bank (ADB) jointly launched a project aimed at exploring possibilities to improve the conditions of work in developing countries as a means of achieving faster and more equitable economic growth. The project focused on three main areas: gender-based discrimination, child labour, and occupational health and safety. The objective of the exercise was to develop possible strategies for integrating the twin objectives of equity and efficiency into the process of selection, designing and monitoring of investment projects undertaken by the ADB and national governments in developing countries. In the context of this project detailed studies were carried in Bangladesh, Nepal, the Philippines and Thailand on each of the three main areas selected, including gender-based discrimination. The country study on Bangladesh concerning gender-based discrimination has been provided to the Division for the Advancement of Women secretariat.